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Attorneys for Defendants ReconTrust Company, N.A.,  
Bank of America, N.A., successor by merger to BAC  
Home Loans Servicing, LP, and Mortgage Electronic  
Registration Systems, Inc.

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

**DOUGLAS A. JAMES and EILEEN M.  
JAMES**, Husband and Wife,

Case No. 11-CV-324-ST

Plaintiffs,

v.

DECLARATION OF MEGAN E. SMITH IN  
SUPPORT OF DEFENDANTS' SECOND  
NOTICE OF SUPPLEMENTAL  
AUTHORITY

**RECONTRUST COMPANY**, an Unknown  
Entity Operating in the State of Oregon, **BANK  
OF AMERICA, N.A., successor by merger to  
BAC HOME LOANS SERVICING LP**, a  
Texas Limited Partnership, **MORTGAGE  
ELECTRONIC REGISTRATION  
SYSTEMS, INC.**, a Delaware Corporation,

Defendants.

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I, Megan E. Smith, declare and state as follows:

1. I am an attorney at Lane Powell PC and one of the attorneys of record for defendants ReconTrust Company, N.A. ("ReconTrust"), Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP ("BACHLS"), and Mortgage Electronic Registration

Systems, Inc. (“MERS”) (collectively “Defendants”). I make this declaration based on my own personal knowledge and, if called as a witness, I could and would competently testify to the facts stated herein.

2. Attached as Exhibit 1 is a true and correct copy of the Order Granting AHMSI Defendants’ Motion to Dismiss, dated January 23, 2012, and signed by Judge Janelle F. Wipper, in *Lind v. Fidelity Nat. Title Insur. Co.*, in the Circuit Court of the State of Oregon for Washington County, Case No. C116471CV; as well as a true and correct copy of Plaintiff’s Amended Complaint: Declaratory Relief for Equitable Redemption Due to Wrongful Foreclosure; and Quiet Title, dated October 3, 2011.

3. Attached as Exhibit 2 is a true and correct copy of the Opinion and Order, dated January 23, 2012, and signed by Judge Charles E. Corrigan, in *Mashia v. Northwest Trustee Services, Inc.*, in the Circuit Court of the State of Oregon for Multnomah County, Case No. 1008 12752.

4. Attached as Exhibit 3 is a true and correct copy of the Order Denying Temporary Restraining Order, dated January 11, 2012, and signed by Judge D. Charles Bailey in *Melli v. Recontrust Co.*, Case No. C12-0112CV; as well as a true and correct copy of Plaintiff’s Complaint: Declaratory Relief, Invalidation of Non-Judicial Foreclosure Due to Wrongful Foreclosure; Breach of Contract in *Melli*.

5. Attached as Exhibit 4 is a true and correct copy of the Westlaw Order, dated November 16, 2011, issued by the Supreme Court of Michigan, in *Residential Funding Co., L.L.C. v. Saurman*, 490 Mich. 909, 805 N.W.2d 183 (2011).

6. Attached as Exhibit 5 is a true and correct copy of the Westlaw Order, dated December 23, 2011, issued by the Tenth Circuit for the United States Court of Appeals, in *Commonwealth Property Advocates v. MERS*, No. 10-4182, No. 10-4193, and No. 10-4215, available at 2011 WL 6739431 (10th Cir. Dec. 23, 2011).

7. Attached as Exhibit 6 is a true and correct copy of the Westlaw Order, dated November 8, 2011, issued by the Eleventh Circuit for the United States Court of Appeals, in *Smith v. Saxon Mortg.*, No. 11-11762, available at 2011 WL 5375063.

8. Attached as Exhibit 7 is a true and correct copy of the Westlaw Order Affirming the District Court's Order Granting Motion to Dismiss, dated January 25, 2012, issued by the Supreme Court of Idaho, in *Trotter v. Bank of New York Mellon, et al.*, 2012 WL 206004 (2012).

9. Attached as Exhibit 8 is a true and correct copy of the Westlaw Order Adopting Report and Recommendation, dated January 17, 2012, issued by the Honorable Edward J. Lodge, in *Washburn v. Bank of America, N.A.*, in the United States District Court for the District of Idaho, Case No. 1:11-cv-00193-EJL-CWD, available at 2012 WL 139213; as well as a true and correct copy of the Westlaw Report and Recommendation, dated October 21, 2011, issued by the Honorable Candy W. Dale, in *Washburn*, available at 2011 WL 7053617.

**Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.**

DATED: February 3, 2012

s/ Megan E. Smith  
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Megan E. Smith